

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JULY 1, 2005

**SENATE BILL**

**No. 1015**

**Introduced by Senator Romero**

(Principal coauthor: Assembly Member Parra)

**(Coauthor: Senator Poochigian Coauthors: Senators Ackerman,  
Kehoe, and Poochigian)**

(Coauthor: Assembly Member La Suer)

February 22, 2005

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An act to add Chapter 5.7 (commencing with Section 8400) to Division 1 of Title 2 of, and to repeal Section 12016 of, *Section 12016.1* to the Government Code, to add Section 830.15 *11105.06* to the Penal Code, and to amend Section 5066 of the Vehicle Code, *and to amend Items 0690-001-0001, 0690-010-0890, 0690-010-3034, and 0690-101-0890 of, and to add Items 0685-001-0890, 0685-001-3034, 0685-101-0890, and 0685-101-3034 to, Section 2.00 of Chapter 38 of the Statutes of 2005,* relating to homeland security, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as amended, Romero. Office of Homeland Security.

(1) Existing law requires the Governor to appoint a Director of Homeland Security to coordinate homeland security activities in the state, and to appoint a deputy director of homeland security to serve at the pleasure of the director. Existing law sets forth certain duties of an Office of Homeland Security in state government.

~~This bill would repeal the provisions requiring the appointment of the Director of Homeland Security and the deputy director. It would instead establish the Office of Homeland Security in the office of the~~

~~Governor, with specified duties with regard to the coordination and oversight of homeland security activities in the state, under the direction of a Director of Homeland Security appointed by the Governor, with specified authority and duties.~~

*Existing law appropriates \$33,262,000 from the Federal Trust Fund to the Office of Emergency Services for the Office of Homeland Security, \$100,000 from the Antiterrorism Fund to the Office of Emergency Services for the Office of Homeland Security, and \$343,424,000 from the Federal Trust Fund to the Office of Emergency Services for plans and preparedness, of which \$328,000,000 is intended for support of the Office of Homeland Security.*

*This bill would, upon order of the Director of Finance, transfer the unencumbered balances of the \$33,262,000 and \$100,000 appropriations from the Office of Emergency Services directly to the Office of Homeland Security for support of that office, and the unencumbered balance of the \$343,424,000 appropriation that is intended for support of the Office of Homeland Security from the Office of Emergency Services directly to the Office of Homeland Security for local assistance. The bill would also appropriate \$1,777,000 from the Antiterrorism Fund to the Office of Homeland Security for local assistance.*

(2) Existing law authorizes the Attorney General to furnish specified summary criminal history information to certain peace officers of the state, subject to specified conditions.

~~This bill would specify that require the Attorney General to furnish state summary criminal history information to persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information, and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security, are peace officers of the state for these purposes.~~

(3) The California Public Records Act specifies that certain security, investigatory, and other information of certain law enforcement entities is not subject to disclosure.

This bill would specify that the Office of Homeland Security is a law enforcement organization as required for receipt by employees of the office of confidential intelligence information pursuant to these provisions.

(4) Existing law requires that  $\frac{1}{2}$  of certain revenues derived from the issuance, renewal, transfer, and substitution of California memorial license plates and deposited into the Antiterrorism Fund, be allocated by the Controller, upon appropriation by the Legislature, to the Office of Criminal Justice Planning to be used solely for antiterrorism purposes.

This bill instead would require that ~~one-half~~ <sup>$\frac{1}{2}$</sup>  of these funds be allocated by the Controller, upon appropriation by the Legislature, to the Office of Homeland Security for these purposes.

(5) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ <sup>$\frac{2}{3}$</sup> . Appropriation: ~~no~~<sup>yes</sup>. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. ~~Chapter 5.7 (commencing with Section 8400) is added to Division 1 of Title 2 of the Government Code, to read:~~

~~CHAPTER 5.7. OFFICE OF HOMELAND SECURITY~~

8400. (a) ~~There is in the office of the Governor the Office of Homeland Security. The mission of the office shall be to develop and coordinate the implementation of a comprehensive state strategy to coordinate security activities throughout the state to prevent, deter, and mitigate acts of terrorism, including, but not limited to, grants, operations, training and exercises, information analysis, critical infrastructure protection, and planning and research.~~

(b) ~~For purposes of this chapter, "homeland security" includes all of the following:~~

- ~~(1) The prevention of terrorist attacks within the state.~~
- ~~(2) The reduction of the vulnerability of the state to terrorism.~~
- ~~(3) Minimizing the damage to, and assisting in the recovery of, the state from terrorist attacks that occur within this state or the United States.~~

8401. ~~The office shall be headed by a director, to be known as the Director of Homeland Security, who shall be appointed by the Governor with the advice and consent of the Senate, and who shall serve at the pleasure of the Governor. The director shall be~~

1 the individual primarily responsible for coordinating security  
2 efforts of all departments and agencies in the state and shall be  
3 the principal point of contact for and to the Governor with  
4 respect to coordination of these efforts. The director shall have  
5 the authority of a head of a department as provided by law.

6 8402. The office shall have all of the following duties and  
7 responsibilities:

8 (a) Coordinating homeland security activities throughout the  
9 state.

10 (b) Coordinating the activities of all state agencies pertaining  
11 to homeland security issues, including, but not limited to, all  
12 legislative issues, contact with federal and local agencies,  
13 training, exercises, public outreach activities, critical  
14 infrastructure protection, information analysis and threat  
15 protection, and planning and research.

16 (c) Coordinating and approving all activities between state  
17 agencies and federal agencies on topics related to terrorism,  
18 including coordinating and approving all state requests for  
19 federal funds designated for homeland security activities,  
20 developing guidelines for those state requests, and approving the  
21 distribution of any federal funds allocated to the state.

22 (d) Serving as the principal point of contact for and to the  
23 Governor with respect to the federal Department of Homeland  
24 Security and all other federal and state agencies and the  
25 Legislature, on matters relating to terrorism and homeland  
26 security.

27 (e) Coordinating the review and assessment of the California  
28 Homeland Security Strategy, and coordinating the amendment  
29 and submission of the plan to the Governor for approval.

30 (f) Assigning specific state security functions to state agencies  
31 consistent with the duties and responsibilities identified in the  
32 California Homeland Security Strategy. These assignments may  
33 be made by administrative order issued by the director.

34 8403. (a) The director may appoint staff necessary for the  
35 support of the office pursuant to the State Civil Service Act (Part  
36 2 (commencing with Section 18500) of Division 5).

37 (b) The director shall respond to and investigate complaints  
38 regarding actions of employees of the office.

1     ~~8404. All state agencies shall assist the Office of Homeland~~  
2 ~~Security and the director in carrying out the purposes of this~~  
3 ~~chapter and the functions of the office.~~

4     ~~8405. (a) Notwithstanding Section 7550.5, the office shall~~  
5 ~~submit an annual report to the Legislature. This report, which~~  
6 ~~shall be a public record and shall be posted on the office's Web~~  
7 ~~site, shall include the following:~~

8     ~~(1) A review of the activities of the office and of state and~~  
9 ~~local government agencies during the previous year in the area of~~  
10 ~~homeland security.~~

11     ~~(2) A review of activities involving the activities of the office~~  
12 ~~in the area of homeland security during the previous year that~~  
13 ~~resulted in complaints of violations of constitutional rights of~~  
14 ~~privacy, free speech and expression, equal protection, or due~~  
15 ~~process.~~

16     ~~(3) A list of the state and local law enforcement entities~~  
17 ~~participating in Regional Threat Assessment Centers, a review of~~  
18 ~~the memoranda of understanding signed by the office governing~~  
19 ~~their participation, and the costs of that participation.~~

20     ~~(b) Notwithstanding Section 7550.5, the office, in~~  
21 ~~collaboration with the State Department of Health Services, shall~~  
22 ~~report to the Chairperson of the Joint Legislative Budget~~  
23 ~~Committee and the chairpersons of the budget and policy~~  
24 ~~committees of each house of the Legislature on or before~~  
25 ~~February 1, 2006, a statewide strategic plan for the use of federal~~  
26 ~~homeland security and bioterrorism funds by all departments and~~  
27 ~~local jurisdictions. The plan shall include the state's goals and~~  
28 ~~objectives for improving the state's level of preparedness for a~~  
29 ~~terrorism event, which is based on an assessment of the state's~~  
30 ~~level of preparedness and reflects a coordination of preparedness~~  
31 ~~activities at the state and local level.~~

32     ~~(c) Notwithstanding Section 7550.5, the office, in~~  
33 ~~collaboration with the State Department of Health Services, shall~~  
34 ~~annually report to the Chairperson of the Joint Legislative Budget~~  
35 ~~Committee, and the chairperson of the budget committees of~~  
36 ~~each house of the Legislature on or before January 10 its~~  
37 ~~expenditures of federal homeland security and bioterrorism~~  
38 ~~funds. This report shall include all of the following:~~

~~(1) Descriptions of the grant expenditures and coordination activities at the state and local level that have occurred over the past year.~~

~~(2) How those activities met the state's strategic goals and objectives.~~

~~(3) The funding amounts awarded to local jurisdictions and specific departments.~~

~~(4) The funding levels by grant and grant year that have been expended, encumbered, and unencumbered.~~

~~(5) Any challenges that the departments or local jurisdictions encountered that hindered the expenditure of these funds.~~

~~(6) The areas of focus for the upcoming year.~~

~~SEC. 2. Section 12016 of the Government Code is repealed.~~

~~SEC. 3. Section 830.15 is added to the Penal Code, to read:~~

~~830.15. (a) Persons described in subdivision (d) are not peace officers but shall be included as "peace officers of the state" under paragraph (2) of subdivision (e) of Section 11105 for the purpose of receiving state summary criminal history information, and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (e) of Section 11105.~~

~~(b) Persons described in subdivision (d) shall not exercise the powers of arrest for a peace officer as specified in Section 386, nor the power to serve warrants as specified in Sections 1523 and 1530, during the course and within the scope of their employment.~~

~~(c) Notwithstanding any other provision of law, persons described in subdivision (d) may not carry firearms.~~

~~(d) This section applies to persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information, and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security.~~

~~(e) The Office of Homeland Security shall be considered a law enforcement organization as required for receipt by these persons of confidential intelligence information pursuant to subdivision (f) of Section 6254 of the Government Code.~~

~~SECTION 1. (a) The Legislature finds and declares all of the following:~~

1     *(1) The Office of Homeland Security was established in*  
2     *February 2003 by executive order to coordinate the state's*  
3     *antiterrorism activities.*

4     *(2) In February of 2005, the Legislative Analyst's Office*  
5     *recommended that the Legislature provide statutory authority for*  
6     *the Office of Homeland Security. The Legislative Analyst's Office*  
7     *analysis points out funding delays and the lack of a unified*  
8     *strategic approach to homeland security issues.*

9     *(3) The Legislature recognizes, in light of the events of*  
10    *September 11, 2001, and the more recent London bombings, the*  
11    *pressing need for a unified approach to homeland security within*  
12    *the state.*

13    *(b) Therefore, the Legislature intends to restructure the Office*  
14    *of Homeland Security during the next legislative session but to*  
15    *give the existing Office of Homeland Security responsibility of*  
16    *administering its own budget appropriations commencing with*  
17    *this fiscal year.*

18    SEC. 2. Section 12016.1 is added to the Government Code, to  
19    read:

20    12016.1. The Office of Homeland Security shall be  
21    considered a law enforcement organization as required for  
22    receipt of confidential intelligence information pursuant to  
23    subdivision (f) of Section 6254 by persons employed within the  
24    Office of Homeland Security whose duties and responsibilities  
25    require the authority to access criminal history and other  
26    intelligence information and who have been cleared to do so by  
27    both the state Department of Justice and the United States  
28    Department of Homeland Security.

29    SEC. 3. Section 11105.06 is added to the Penal Code, to  
30    read:

31    11105.06. In addition to furnishing state summary criminal  
32    history information to the persons and entities set forth in Section  
33    11105 and subject to the requirements and conditions set forth in  
34    that section, the Attorney General shall furnish state summary  
35    criminal history information to persons employed within the  
36    Office of Homeland Security whose duties and responsibilities  
37    require the authority to access criminal history and other  
38    intelligence information and who have been cleared to do so by  
39    both the state Department of Justice and the United States  
40    Department of Homeland Security. These persons shall be

1 *furnished with that information on the same basis as persons*  
2 *designated in paragraph (2) of subdivision (c) of Section 11105.*

3 SEC. 4. Section 5066 of the Vehicle Code is amended to  
4 read:

5 5066. (a) The department shall, in conjunction with the  
6 California Highway Patrol, design and make available for  
7 issuance pursuant to this article the California memorial license  
8 plate. Notwithstanding Section 5060, the California memorial  
9 license plate may be issued in a combination of numbers or  
10 letters, or both, as requested by the applicant for the plates. Any  
11 person described in Section 5101 may, upon payment of the  
12 additional fees set forth in subdivision (b), apply for and be  
13 issued a set of California memorial license plates.

14 (b) In addition to the regular fees for an original registration or  
15 renewal of registration, the following additional fees shall be  
16 paid for the issuance, renewal, retention, or transfer of the  
17 California memorial license plates authorized pursuant to this  
18 section:

19 (1) For the original issuance of the plates, fifty dollars (\$50).

20 (2) For a renewal of registration of the plates or retention of  
21 the plates, if renewal is not required, forty dollars (\$40).

22 (3) For transfer of the plates to another vehicle, fifteen dollars  
23 (\$15).

24 (4) For each substitute replacement plate, thirty-five dollars  
25 (\$35).

26 (5) In addition, for the issuance of an environmental license  
27 plate, as defined in Section 5103, the additional fees prescribed  
28 in Sections 5106 and 5108 shall be deposited proportionately in  
29 the funds described in subdivision (c).

30 (c) The department shall deposit the additional revenue  
31 derived from the issuance, renewal, transfer, and substitution of  
32 California memorial license plates as follows:

33 (1) Eighty-five percent in the Antiterrorism Fund, which is  
34 hereby created in the General Fund.

35 (A) Upon appropriation by the Legislature, one-half of the  
36 money in the fund shall be allocated by the Controller to the  
37 Office of Homeland Security to be used solely for antiterrorism  
38 activities. The office may not use more than 5 percent of the  
39 funds appropriated to it for administrative purposes.



(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.

(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Moneys deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.

(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program. The department may utilize an amount of money, not to exceed fifty thousand dollars (\$50,000) annually, derived from the issuance, renewal, transfer, and substitution of California memorial license plates for the continued promotion of the California memorial license plate program of this section.

(e) “Antiterrorism activities” means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

*SEC. 5. Item 0685-001-0890 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:*

*0685-001-0890—For support of Office of Homeland Security,  
payable from the Federal Trust Fund .....*

*0*

Provisions:

1. *It is the intent of the Legislature to formally restructure the Office of Homeland Security by statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.*
2. *Upon order of the Director of Finance, funds may be transferred from this Item to Item 0685-101-0890 to provide additional local assistance funding consistent with federal program guidelines.*

SEC. 6. *Item 0685-001-3034 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:*

0685-001-3034—*For support of Office of Homeland Security, payable from the Antiterrorism Fund* ..... 0

Provisions:

1. *It is the intent of the Legislature to formally restructure the Office of Homeland Security by statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.*

SEC. 7. *Item 0685-101-0890 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:*

0685-101-0890—*For local assistance, Office of Homeland Security, payable from the Federal Trust Fund* ..... 0

Provisions:

1. *It is the intent of the Legislature to formally restructure the Office of Homeland Security in statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.*

SEC. 8. *Item 0685-101-3034 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:*

0685-101-3034—For local assistance, Office of Homeland Security, payable from the Antiterrorism Fund ..... 1,777,000

Provisions:

1. It is the intent of the Legislature to formally restructure the Office of Homeland Security by statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.

SEC. 9. Item 0690-001-0001 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:

0690-001-0001—For support of Office of Emergency Services ..... 36,105,000

Schedule:

- (1) 15-Mutual Aid Response ..... 21,116,000
- (2) 35-Plans and Preparedness ..... 17,654,000
- (3) 45-Disaster Assistance ..... 23,620,000
- (4) 55.01-Administration and Executive..... 7,173,000
- (5) 55.02-Distributed Administration and Executive ..... -6,267,000
- (6) 65-Office of Homeland Security..... 33,262,000
- (7) 97.20.001-Unallocated Reduction ..... -614,000
- (8) Reimbursements..... -2,651,000
- (9) Amount payable from the Unified Program Account (Item 0690-001-0028) ..... -654,000
- (10) Amount payable from the Nuclear Planning Assessment Special Account (Item 0690-001-0029) ..... -935,000
- (11) Amount payable from the Federal Trust Fund (Item 0690-001-0890) ..... -22,337,000
- (12) Amount payable from the Federal Trust Fund (Item 0690-010-0890) ..... -33,262,000

Provisions:

- 1       1. *Funds appropriated in this item may be reduced by*  
2       *the Director of Finance, after giving notice to the*  
3       *Chairperson of the Joint Legislative Budget Commit-*  
4       *tee, by the amount of federal funds made available*  
5       *for the purposes of this item in excess of the federal*  
6       *funds scheduled in Item 0690-001-0890.*
- 7       2. *The Office of Emergency Services shall charge tuition*  
8       *for all training offered through the California Spe-*  
9       *cialized Training Institute.*
- 10      3. *Upon the approval by the Department of Finance, the*  
11      *Controller shall transfer such funds as are neces-*  
12      *sary between this item and Item 0690-101-0890.*
- 13      4. *The Office of Homeland Security, in collaboration*  
14      *with the State Department of Health Services, shall*  
15      *report to the Chairperson of the Joint Legislative*  
16      *Budget Committee, and the chairperson of the fiscal*  
17      *and policy committees of each house of the Legisla-*  
18      *ture on or before February 1, 2006, a statewide*  
19      *strategic plan for the use of federal homeland securi-*  
20      *ty and bioterrorism funds by all departments and lo-*  
21      *cal jurisdictions. The plan shall include the state's*  
22      *goals and objectives for improving the state's level*  
23      *of preparedness for a terrorism event, which (a) is*  
24      *based on an assessment of the state's level of pre-*  
25      *paredness and (b) reflects a coordination of pre-*  
26      *paredness activities at the state and local level. It is*  
27      *not the intent of the Legislature to require the Office*  
28      *of Homeland Security or the State Department of*  
29      *Health Services to disclose or include sensitive or*  
30      *classified information in the strategic plan.*
- 31      5. *It is the intent of the Legislature that the funding prior-*  
32      *ities for federal homeland security funds are: (a) en-*  
33      *hancing information sharing between local, state,*  
34      *and federal public safety agencies; (b) identifying*  
35      *and protecting critical infrastructure and key assets*  
36      *to deter terrorists; (c) enhancing coordination of*  
37      *state agencies' homeland security activities; (d) im-*  
38      *plementing the state's homeland security strategy;*  
39      *and (e) implementing interoperable communications*  
40      *for public safety agencies.*

6. *It is the intent of the Legislature that the Office of Emergency Services and the California Department of Forestry and Fire Protection, with assistance from the Department of General Services, collaborate to the extent possible in the purchasing of fire trucks.*

7. *Upon order of the Director of Finance, this item may be adjusted to reflect any transfer made pursuant to Provision 1 of Item 0690-010-0890.*

*SEC. 10. Item 0690-010-0890 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:*

*0690-010-0890—For support of Office of Emergency Services for the Office of Homeland Security, for payment to Item 0690-001-0001, payable from the Federal Trust Fund ..... 33,262,000*  
Provisions:

1. *The funds appropriated in this item are intended for support of the Office of Homeland Security. Upon order of the Director of Finance, the unencumbered balance of the funds appropriated by this item shall be transferred to Item 0685-001-0890.*

*SEC. 11. Item 0690-010-3034 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:*

*0690-010-3034—For support of Office of Emergency Services for the Office of Homeland Security ..... 100,000*  
Provisions:

1. *The funds appropriated in this item are intended for support of the Office of Homeland Security. Upon order of the Director of Finance, the unencumbered balance of the funds appropriated by this item shall be transferred to Item 0685-001-3034.*

*SEC. 12. Item 0690-101-0890 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:*

*0690-101-0890—For local assistance, Office of Emergency Services, payable from the Federal Trust Fund ..... 901,150,000*

1       *Schedule:*

2       (1) *35-Plans and Preparedness* ..... 343,424,000

3       (2) *45-Disaster Assistance* ..... 557,726,000

4       *Provisions:*

5       1. *Any federal funds that may become available in addi-*  
6         *tion to the funds appropriated in this item for Pro-*  
7         *gram 45-Disaster Assistance are exempt from Sec-*  
8         *tion 28.00 of this act.*

9       2. *Of the funds appropriated in Schedule (1) of this*  
10       *item, \$328,000,000 is intended for support of the Of-*  
11       *ice of Homeland Security. Upon order of the Direc-*  
12       *tor of Finance, the unencumbered balance of the Of-*  
13       *ice of Homeland Security funds appropriated by*  
14       *this item shall be transferred to Item 0685-101-*  
15       *0890.*

16  
17       *SEC. 13. This act is an urgency statute necessary for the*  
18       *immediate preservation of the public peace, health, or safety*  
19       *within the meaning of Article IV of the Constitution and shall go*  
20       *into immediate effect. The facts constituting the necessity are:*

21       *In order for the Office of Homeland Security to adequately*  
22       *administer the grants, properly reimburse local agencies for*  
23       *their homeland security expenditures, and receive all information*  
24       *necessary to evaluate threats and prepare training, it is*  
25       *necessary that this act take effect immediately.*